

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	Case No. 1:23-cr-195-2
)	
Plaintiff,)	Judge J. Philip Calabrese
)	
v.)	Magistrate Judge
)	James E. Grimes, Jr.
SHERMAN THOMAS,)	
)	
Defendant.)	
)	

OPINION AND ORDER

On April 6, 2023, a federal grand jury indicted Defendant Sherman Thomas for conspiracy to distribute and possess with intent to distribute controlled substances in violation of 21 U.S.C. § 846, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), using or maintaining a drug premises in violation of 21 U.S.C. § 856(a)(1), and possession of firearms and ammunition as a convicted felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). (ECF No. 1.) Under federal law, some of those charges carry mandatory minimum sentences of ten years in prison and potential statutory maximum sentences of life.

On May 20, 2024, the Court held a hearing on Mr. Thomas's motion to appear *pro se*. (ECF No. 103.) At that hearing, the Court granted Mr. Thomas's motion, appointed Scott J. Friedman as standby counsel, and set July 29, 2024 as the deadline for Mr. Thomas to file any motion regarding jurisdiction. (*Id.*) On July 2, 2024, Mr. Thomas filed a motion for extension of time to file a motion challenging jurisdiction, which was docketed on July 24, 2024. (ECF No. 117.) The Court denied that motion

on July 24, 2024. (ECF No. 118.) To date, Mr. Thomas has not filed any further motions.

On November 5, 2024, the Court held oral argument on several motions filed by co-defendants in this case. (ECF No. 133.) Mr. Thomas appeared at this hearing and Mr. Friedman appeared as standby counsel. (*Id.*) At the hearing, Mr. Thomas stated that he did not have any pending motions (*id.*, PageID #2679) and that there were no other matters that he wished to raise for the Court to consider (*id.*, PageID #2683).

On December 16, 2024, the Court held an in-person status conference on the record. (ECF No. 146.) Mr. Thomas appeared *pro se* and Mr. Friedman appeared as standby counsel. (*Id.*) At this conference, the Court provided Mr. Thomas with the opportunity to make a record. (*Id.*, PageID #2841.) Mr. Thomas read the following statement:

I apologize to the Court for any commercial dishonors. I'm here on a special appearance, not a general appearance. I'm a living man. I am not a person. I am not a U.S. citizen. I'm here on behalf of the Sherman Thomas—Sherman Randolph Thomas, Jr. estate as the beneficiary. I'm declared, record, and published American state, national Ohio state, via the Ohio assembly and land recording office.

Also, per *Milligan ex parte* filed in the United States Supreme Court, all of my affairs are to be adjudicated in the Ohio American common law courts land and soil jurisdiction, which is open and operating. And it is unconstitutional to try American civilians in military, tribunal courts, or maritime courts per *Ex parte Milligan*, 71 U.S. 2 (1866).

And the other issue I wanted to address was, since I've been in here, I've been establishing that I'm under duress and coercion, and—under illegal duress from actors and persons under which this Court has definite jurisdiction, and which I do not submit to.

I plead duress under Federal Rule of Civil Procedure 8(c).

This Court has duty to eliminate all forms of duress in the context of this proceeding that are within its jurisdiction in the interest of justice.

I solicit assistance and protection from the Court in removing all identified sources of illegal duress within the jurisdiction of the Court in order that the credibility of all evidence gathered may be maintained.

It is inappropriate to request, rely upon, or grant testimony or discovery against me unless and until the Court exercises all powers available to it in eliminating said duress. Meeting this requirement is important because the existence of said duress renders all statements and actions related to me in the context of this proceeding as inadmissible as evidence.

And I would like to—and I need more time to establish an administrative record for remedy.

And that's all, Your Honor.

(*Id.*, PageID #2841–43 (court reporter clarification omitted).) After the Court's expression of confusion, Mr. Thomas further stated:

I'm basically stating that I'm American—that I'm an American state national. I'm a living—I'm a living man. I'm not under the jurisdiction. And my case should be heard in Ohio common law with people of my peers, like as it states in the *Ex parte*. I'm all the *Ex parte Milligan*, which is we have our own courts open, and all my affairs should be adjudicated in the Ohio American common law courts land and soil jurisdiction.

And like I was saying, if you can give me more time to put stuff in my administrative record, I can have a remedy in my administrative record.

I'm not here to disrespect you, or I don't want to upset you, Your Honor. I just want to settle things in the proper manner.

(*Id.*, PageID #2843.)

Affording Mr. Thomas the “lenient treatment generally accorded to *pro se* litigants,” the Court construes his statements on the record as a general challenge to the Court's jurisdiction. *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996); ECF No. 146, PageID #2845. Jurisdictional requirements are not waivable and may be

brought up at any time in a federal court proceeding. *Fair Hous. Ctr. of Metro. Detroit v. Singh Senior Living, LLC*, 124 F.4th 990, 992 (6th Cir. 2025). Accordingly, the Court takes up Mr. Thomas’s challenge to its jurisdiction, finds that it does have jurisdiction over this case and over Mr. Thomas, and explains the basis for this determination.

ANALYSIS

Mr. Thomas appears to believe that he is not a United States citizen, despite acknowledging that he was born in Ohio and is a citizen of Ohio. (ECF No. 146, PageID #2826–27.) He seems to believe that a person can be an Ohio citizen without being a United States citizen. This belief is incorrect. All Ohio citizens are also United States citizens. All state citizens are also federal citizens. As the Supreme Court has explained, “[e]very citizen of a State is a subject of two distinct sovereignties, having concurrent jurisdiction in the State—concurrent as to place and persons, though distinct as to subject-matter.” *Clafin v. Houseman*, 93 U.S. 130, 136 (1876). After all, “the Fourteenth Amendment provides that “[a]ll persons born . . . in the United States . . . are citizens of the United States and of the State wherein they reside.” U.S. Const. amend. IV, § 1.

Mr. Thomas states that he is a “living man” and not a “person.” In the context of this case, all “living men” are also “persons.” In the Fourteenth Amendment (and in this ruling), the word “person” refers to real, physical human beings, not fictional or corporate entities. Indeed, the Fourteenth Amendment refers to persons who are “born or naturalized.” Corporations are formed, not born or naturalized. Although

corporations have some rights under the Constitution, they do not have the same rights as natural persons, such as the right against self-incrimination, the right to bear arms, or the right to petition for a writ of habeas corpus (which requires the government to produce a person's actual physical body). Accordingly, the words "person" and "people" in these constitutional provisions and in the Fourteenth Amendment mean real human beings. *See also* Caesar Kalinowski IV, *A Legal Response to the Sovereign Citizen Movement*, 80 Mont. L. Rev. 153, 177–81 (2019).

Although some statutes might define a "person" more broadly to include entities, such as corporations, these definitions have no relevance here. A statutory definition of the word "person" applies only to the statute for which it was written, not to all laws everywhere. For example, 28 U.S.C. § 3002(10) states that, "[a]s used in this chapter," the definition of the word "person" includes "a natural person" as well as "a corporation" or "any other public or private entity." The phrase "as used in this chapter" means that this definition of "person" only applies to *that* chapter of the United States Code, not to the entirety of the United States Code and certainly not to the Constitution.

To the extent that Mr. Thomas's statement implies that he is a sovereign person over whom the Court may not exercise jurisdiction, such a position depends on a faulty understanding of where power lies in our system of government. Here, sovereignty or power rests with the People. The Constitution makes that plain. It begins by saying that "We the People" establish our system of government in the Constitution. The plural word "People" is significant because "the people" are

sovereign, but individual persons are not. Only through collective political action do the people exercise power and sovereignty. Individual persons cannot simply exempt themselves from the government's authority.

Before proceeding further, a note regarding capitalization. Mr. Thomas appears to have a mistaken belief about the legal importance of capitalization. The capitalization used in historical documents like the Declaration of Independence and the Constitution may appear unique or significant to modern-day readers. However, the use of capitalization is merely a typographical convention. Certain words are capitalized in historical documents simply because writers in the past had different habits than modern writers do. Just as students today learn to capitalize proper nouns, writers hundreds of years ago learned to capitalize other types of words. Capitalization habits have changed over centuries as a matter of style, not because they carry legal significance. Capitalization does not provide any extra meaning in a legal document. It does not matter whether a name is capitalized or not in a legal document; the name is the same regardless of whether it is capitalized. For example, the indictment in this case would have the same meaning whether it charged "SHERMAN THOMAS" or "Sherman Thomas." The fact that the name is spelled in capital letters represents nothing more than a stylistic preference to make the indictment easier to read—it helps readers spot names in the indictment more quickly.

I. The Federal Courts

Under the Supremacy Clause of the United States Constitution, the "Constitution, and the Laws of the United States which shall be made in Pursuance

thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2. In short, this provision makes the Constitution the highest law in the land. If a state government tries to pass a law that contradicts the Constitution, the Constitution prevails, and the state government’s law is invalid. Further, if the Constitution gives Congress the power to pass a law, then that federal law is also supreme because it is one of “the Laws of the United States which shall be made” pursuant to the Constitution. This means that, if the United States Congress enacts a federal law using one of the powers that it receives from the Constitution, then no state law can contradict that federal law.

I.A. Federal Jurisdiction

One power that the Constitution gives to Congress is the power to establish federal courts. Article III, Section 1 of the Constitution states that the “judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” This provision of the Constitution creates the Supreme Court and gives Congress the power to establish federal courts inferior to the Supreme Court.

Using this power, Congress did two things relevant here. First, it created this Court, the United States District Court for the Northern District of Ohio. *See* 28 U.S.C. § 115. Second, it conferred on the district courts “original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.” 18 U.S.C. § 3231. The laws of the United States are the ones Congress enacts as opposed to those that state legislatures enact. These laws of the United States

govern every individual human being in the United States. Someone physically present in the United States is not exempt from them.

Therefore, even if Mr. Thomas were not a United States citizen—though he is, because he was born in Ohio—that fact does not determine whether a federal district court has jurisdiction over him. A person’s physical presence in the United States gives the federal judiciary power to act on that person regardless of his citizenship. (For the sake of thoroughness, the Court notes that Mr. Thomas does not qualify for any diplomatic or other exception to this federal jurisdiction.) Because he is physically present within the United States (which includes all of the states, not just land that is exclusively managed by the federal government), Mr. Thomas is subject to federal jurisdiction regardless of his citizenship. Again, the Court emphasizes that Mr. Thomas is, in fact, a United States citizen.

I.B. The Criminal Jurisdiction of the Federal Courts

Article III, Section 2 of the Constitution gives the federal courts jurisdiction over all cases arising under federal law. As noted, this jurisdiction extends to all cases arising under federal criminal law, which applies to everyone physically present in the United States. Federal criminal laws prohibit certain acts or conduct. Federal crimes are violations of federal criminal laws. Mr. Thomas does not need to “consent” or “contract” with the federal government to be subject to federal criminal jurisdiction. Instead, the Constitution and laws of the United States provide for notice of charges against him. A formal accusation that a person has violated federal criminal law follows certain legal procedures. One of these procedures is the federal grand jury process. In this case, Mr. Thomas was charged with a federal crime when

a federal grand jury indicted him, meaning that an impartial group of citizens determined there was enough evidence to charge him. That is, the grand jury found that there was probable cause to believe that Mr. Thomas committed certain specified offenses, which are set out in the indictment. (*See* ECF No. 1.)

A federal criminal law is not unconstitutional simply because Mr. Thomas believes that it is—or because anyone tells him that it is. A court must hold that a federal criminal law violates the Constitution for it to be unconstitutional. The federal criminal laws under which Mr. Thomas has been indicted have not been ruled unconstitutional by a court—either generally or as applied to him. To the contrary, courts have regularly found that these laws are within the power that the Constitution gives to Congress. *See, e.g., United States v. Collins*, 799 F.3d 554 (6th Cir. 2015) (applying 21 U.S.C. § 846); *United States v. Scales*, 464 F.2d 371, 373–76 (6th Cir. 1972) (upholding 21 U.S.C. § 841(a)(1) as a valid exercise of Congress’s power under the Commerce Clause of the Constitution); *United States v. Latimer*, 16 F.4th 222, 225–27 (6th Cir. 2021) (applying 18 U.S.C. § 922(g)). To the extent Mr. Thomas wishes to challenge the constitutionality of any of these statutes, he had the opportunity to do so in accordance with the procedures for pretrial motions that the other Defendants in this case had.

II. Other Arguments

Put simply, the Constitution gives Congress the power to create the federal courts. It did so and vested those courts, including the Northern District of Ohio, with the power to hear criminal cases charging that a person violated federal law. The government charges that Mr. Thomas violated federal law, and the Court has

the power to adjudicate those charges. To try to remove himself from the Court’s jurisdiction, Mr. Thomas advances various arguments, which the Court addresses in turn.

II.A. *Ex Parte Milligan*

Mr. Thomas appears to believe that *Ex parte Milligan*, 71 U.S. 2 (1866), exempts him from the jurisdiction of the Court. This belief is mistaken. In *Ex parte Milligan*, the Supreme Court held that military commissions established during the Civil War could not try civilian residents of loyal states (as opposed to rebelling Confederate states) who had not taken up arms against the United States and were not prisoners of war. *Id.* at 4. That case has no relevance here. This Court is not a military commission or tribunal, and Mr. Thomas is not a non-combatant civilian taken into custody by the military. Contrary to what Mr. Thomas might believe, this Court is not a “tribunal court” or “maritime court.” Congress established this federal district court under the authority of the Constitution. And this federal district court has jurisdiction over all civil and criminal cases arising under federal law in this District—including those involving Mr. Thomas.

In his statements to the Court, Mr. Thomas referred to what he called “land and soil courts.” Whatever Mr. Thomas means by this has no legal consequence or significance here. “Land and soil courts” do not exist. They are not real. If anyone has told Mr. Thomas that he or she is operating a land and soil court, that person is wrong, either ignorantly or intentionally. Anything that person claims to do in “operation” of a land and soil court has no legal significance and no effect in the real world.

II.B. The Common Law

Mr. Thomas appears to believe that there is a separate legal system called the “common law” that exists independently of federal law. Not so. The “common law” refers to law derived from judicial decisions (from state and federal courts) instead of statutes. A federal court has the authority to apply the common law. All federal district courts have jurisdiction over both common law claims and claims created by statutes.

To the extent that Mr. Thomas contends that he ought to be tried in an Ohio court and not a federal court, he is wrong. Mr. Thomas has been indicted under federal criminal laws. As explained above, federal courts have exclusive jurisdiction over criminal cases charging violations of federal law.

II.C. The Uniform Commercial Code

Mr. Thomas appears to believe that this case somehow involves a commercial dispute. It does not. The Uniform Commercial Code has no relevance to this case. It is not even law. Instead, two private organizations—the American Law Institute and the Uniform Law Commission—drafted the Uniform Commercial Code to facilitate commerce. States are free to adopt the Uniform Commercial Code, to ignore it, or to adopt only parts of it. *See Uniform Commercial Code*, The American Law Institute, <https://www.ali.org/publications/uniform-commercial-code> (last visited Feb. 25, 2025); *Uniform Commercial Code*, Uniform Law Commission, <https://www.uniformlaws.org/acts/ucc> (last visited Feb. 25, 2025). Ohio, for example, has adopted the Uniform Commercial Code, with some changes, and codified it in Title 13 of the Ohio Revised Code.

Even where states have adopted the Uniform Commercial Code, state law does not bind the federal government. Again, under the Constitution, federal law is the supreme law of the land. Therefore, even in states that choose to adopt it, the Uniform Commercial Code does not limit the federal government or its power to punish a person for violations of federal criminal law. Moreover, the Uniform Commercial Code deals with transactions between private parties. For all of these reasons, the Uniform Commercial Code simply has no bearing on this case and does not limit the Court's jurisdiction.

II.D. Rule 8(c) of the Federal Rules of Civil Procedure

Finally, Mr. Thomas invokes Rule 8(c). But the Federal Rules of Civil Procedure apply in civil cases—not criminal cases. Instead, the Federal Rules of Criminal Procedure apply in this criminal case. As the Court explained when Mr. Thomas sought to waive his right to counsel and represent himself, even though he does not have the assistance of counsel, Mr. Thomas must follow the Federal Rules of Criminal Procedure for raising and presenting his defenses. To the extent he has a viable defense, the deadline for pretrial motions has passed, and Mr. Thomas will have the opportunity to present his defense to the jury at trial, which is scheduled to begin on June 23, 2025.

CONCLUSION

The Court has jurisdiction over Mr. Thomas and the charges against him. The Court has jurisdiction over Mr. Thomas because he has been indicted for violations of federal criminal laws that allegedly occurred while he was physically present in the United States and within the Northern District of Ohio. This is not a civil case. This

case has nothing to do with Mr. Thomas contracting with the government or anyone else. Nor does the Court's jurisdiction depend on anything Mr. Thomas might have said (or not said) to the Court or have anything to do with Mr. Friedman's brief representation of Mr. Thomas or service as his standby counsel. In fact, the Court remains steadfastly of the belief that representation by counsel would be helpful to Mr. Thomas in light of the significant charges in this case. There is a difference between being aware of and understanding the charges one is facing, on the one hand, and accepting them, on the other. Mr. Thomas does not accept the charges. He pled not guilty, and a jury will decide his guilt or innocence. But types of arguments Mr. Thomas makes rest on a meritless foundation and have no chance of working, legally or factually.

Because a grand jury found probable cause to believe that Defendant Sherman Thomas violated federal criminal law within the Northern District of Ohio, the Court has jurisdiction over him and over this case. For all these reasons, the Court **DENIES** the oral motion Mr. Thomas made to dismiss the indictment.

SO ORDERED.

Dated: March 4, 2025



J. Philip Calabrese
United States District Judge
Northern District of Ohio